

ASSEMBLY BILL

No. 481

Introduced by Assembly Member Ma

February 24, 2009

An act to amend Section 798.21 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 481, as introduced, Ma. Mobilehome parks: rent control: principal residence.

Existing law, the Mobilehome Residency Law, generally regulates the terms and conditions of tenancies in mobilehome parks.

Existing law requires, if a mobilehome space within a mobilehome park is not the principal residence of the homeowner and the homeowner has not rented the mobilehome to another party, that the mobilehome space be exempt from rent control. Existing law requires that, for the purposes of these provisions, a mobilehome be deemed to be the principal residence of a homeowner, except in specified circumstances. This exemption does not apply if the homeowner is unable to rent or lease the mobilehome because the owner or management of the mobilehome park, or the rental agreement, limits or prohibits assignment or subletting.

This bill would, instead, apply the above exemption from rent control to a mobilehome located on a space within a mobilehome park that is not the homeowner's principal residence without regard to whether the homeowner has rented the mobilehome to another party, except as specified.

The bill would also expand and clarify the basis for determining whether a mobilehome is the homeowner's principal residence and

would set forth factors that would constitute sufficient evidence that a mobilehome is not the homeowner's principal residence.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.21 of the Civil Code is amended to
2 read:

3 798.21. (a) Notwithstanding Section 798.17, if a mobilehome
4 space within a mobilehome park is not the principal residence of
5 the homeowner ~~and the homeowner has not rented the mobilehome~~
6 ~~to another party~~, it shall be exempt from any ordinance, rule,
7 regulation, or initiative measure adopted by any city, county, or
8 city and county, ~~which~~ *that* establishes a maximum amount that
9 the landlord may charge a tenant for rent.

10 (b) Nothing in this section is intended to require any homeowner
11 to disclose information concerning his or her personal finances.
12 Nothing in this section shall be construed to authorize management
13 to gain access to any records which would otherwise be confidential
14 or privileged.

15 (c) For purposes of this section, a mobilehome shall be deemed
16 to be the principal residence of the homeowner, ~~unless a review~~
17 ~~of state or county records demonstrates that the homeowner is~~
18 ~~receiving a homeowner's exemption for another property or~~
19 ~~mobilehome in this state, or unless a review of public records~~
20 ~~reasonably demonstrates that the principal residence of the~~
21 ~~homeowner is out of state except as provided in subdivision (e).~~

22 (d) Before modifying the rent or other terms of tenancy as a
23 result of a review of records, ~~as described in subdivision (c)~~
24 *evidence that a mobilehome is not the principal residence of a*
25 *homeowner*, the management shall notify the homeowner, in
26 writing, of the proposed changes and provide the homeowner with
27 a copy of the documents upon which management relied.

28 (e) *Evidence that a mobilehome is a homeowner's principal*
29 *residence does not require that the homeowner be physically*
30 *present in the mobilehome at all times or continuously but that it*
31 *is the homeowner's usual place of return. Evidence that the*
32 *mobilehome is not the homeowner's principal residence includes,*
33 *but is not limited to, the following factors. These factors shall be*

1 weighed in light of the totality of the circumstances, including, but
2 not limited to, the following elements:

3 (1) The homeowner does not carry on basic living activities at
4 the unit for extended periods of time demonstrated by a lack of
5 utility usage.

6 (2) Another property or unit is listed as the homeowner's place
7 of residence on any motor vehicle registration, driver's license,
8 voter registration, or with any other public agency, including
9 federal, state, and local taxing authorities.

10 (3) Utilities for the mobilehome are billed and mailed to a
11 different residential property.

12 (4) The homeowner's personal possessions are not located in
13 the mobilehome.

14 (5) A homeowner's tax exemption or renter's credit for the
15 homeowner has been filed for a different property or the
16 homeowner is owner of record of a different residential property.

17 (6) The homeowner is a corporation or is otherwise not a
18 natural person.

19 (7) The homeowner is absent from the unit for extended periods
20 of time, other than for military service, hospitalization, vacation,
21 family or friend emergency or care, Peace Corps service, academic
22 sabbatical, or other reasonable temporary or seasonal periods of
23 absence, such as travel necessitated by employment or education.

24 (8) The mobilehome is used primarily for storage, entertaining,
25 or as an office.

26 (9) The mobilehome has been subleased, except for a medical
27 hardship, as described in Section 798.23.5, or possession has been
28 transferred without management's approval, as provided in Section
29 798.74.

30 (10) The principal residence of the homeowner is out of state.

31 ~~(e)~~

32 (f) The homeowner shall have 90 days from the date the notice
33 described in subdivision (d) is mailed to review and respond to
34 the notice. Management may not modify the rent or other terms
35 of tenancy prior to the expiration of the 90-day period or prior to
36 responding, in writing, to information provided by the homeowner.
37 Management may not modify the rent or other terms of tenancy if
38 the homeowner provides documentation reasonably establishing
39 that the information provided by management is incorrect or that
40 the homeowner is not the same person identified in the documents.

1 However, nothing in this subdivision shall be construed to authorize
2 the homeowner to change the homeowner's exemption status, *if*
3 *applicable*, of the other property or mobilehome owned by the
4 homeowner.

5 (f)

6 (g) This section does not apply under any of the following
7 conditions:

8 ~~(1) The homeowner is unable to rent or lease the mobilehome~~
9 ~~because the owner or management of the mobilehome park in~~
10 ~~which the mobilehome is located does not permit, or the rental~~
11 ~~agreement limits or prohibits, the assignment of the mobilehome~~
12 ~~or the subletting of the park space~~ *mobilehome is the homeowner's*
13 *principal residence and the space is subleased pursuant to Section*
14 *798.23.5.*

15 (2) The mobilehome is being actively held available for sale by
16 the homeowner, or pursuant to a listing agreement with a real estate
17 broker licensed pursuant to Chapter 3 (commencing with Section
18 10130) of Part 1 of Division 4 of the Business and Professions
19 Code, or a mobilehome dealer, as defined in Section 18002.6 of
20 the Health and Safety Code. A homeowner, real estate broker, or
21 mobilehome dealer attempting to sell a mobilehome shall actively
22 market and advertise the mobilehome for sale in good faith to bona
23 fide purchasers for value in order to remain exempt pursuant to
24 this subdivision.

25 (3) The legal owner has taken possession or ownership, or both,
26 of the mobilehome from a registered owner through either a
27 surrender of ownership interest by the registered owner or a
28 foreclosure proceeding.

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